

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Davorius M. Mack,)	
)	CA No. 6:11-1230
Plaintiff,)	
)	
v.)	ORDER
)	
South Carolina Department of Corrections, et al.,)	
)	
Defendants.)	
)	

Plaintiff Davorius M. Mack (Mack), a state prisoner proceeding *pro se*, filed this action against the defendants under 42 U.S. § 1983. (Dkt. No. 1.) This matter is before the court for review of the Report and Recommendation (Report) of the United States magistrate judge made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 of the District of South Carolina. (Dkt. No. 44.)¹ The Report recommends granting the defendants' motions for summary judgment. (Dkt. No. 33.) The court adopts the Report and grants the motions for summary judgment.

The Report sets forth in detail the relevant facts and legal standards on this matter, and the court incorporates the magistrate judge's Report. Briefly, Mack is incarcerated at Perry Correctional Institution. He alleges that on October 15, 2010, he complained about the inability to urinate and requested medical attention. At the time, the medical department was unable to see him, so he became agitated and began kicking his door. After mealtime, he refused to return his

¹ The magistrate judge's recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The court is charged with making a de novo determination of those portions of the Report to which specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

tray to the corrections officers. After multiple requests to return his tray or present himself to be restrained, the corrections officers used chemical munitions to subdue Mack. Following the incident, medical staff checked on Mack and inserted a catheter to resolve his urination issues.

Mack subsequently filed this action, alleging violations of the Eighth Amendment's prohibition on (1) cruel and unusual punishment for the use of the chemical munitions and (2) deliberate indifference to serious medical needs. The defendants filed a motion for summary judgment on October 3, 2011. (Dkt. No. 33.)

The magistrate judge filed his Report on January 19, 2012. (Dkt. No. 44.) In the Report, the magistrate judge recommended finding that the defendants did not violate the Eighth Amendment in either regard. Mack timely filed a document labeled "amended objections." (Dkt. No. 46.) However, the document is not responsive in any way to the Report—Mack failed to file specific objections. As such, the court adopts the magistrate judge's recommendation. *See Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (stating that the court need not conduct a de novo review when a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations”); *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (stating that in the absence of specific objection, this court is not required to provide an explanation for adopting the recommendation). In the absence of a timely filed, specific objection, the magistrate judge’s conclusions are reviewed only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Mack provides no basis for the court to deviate from the magistrate judge's recommendation.

After a thorough review of the Report and the record in this case, the court adopts the Report and incorporates it herein. (Dkt. No. 44.) It is therefore **ORDERED** that the defendants'

motion for summary judgment (Dkt. No. 33) is **GRANTED**. The plaintiff's case is **DISMISSED** with prejudice.

IT IS SO ORDERED.

s/Timothy M. Cain
Timothy M. Cain
United States District Judge

Anderson, South Carolina
August 2, 2012

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.